

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Training Requirements for Underground Storage Tank System Operators
(LAC 33:XI.601, 603, 605, 607, 609, and 611) (UT017)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to adopt the Underground Storage Tanks regulations, LAC 33:XI.601, 603, 605, 607, 609, and 611 (Log #UT017).

This rule requires training for all operators of underground storage tank (UST) facilities by August 8, 2012. The rule defines the classes of operators (Class A, lass B, and Class C), lists the acceptable training and certification processes for each class, establishes a phase-in schedule for operators to attend training, and requires that UST owners maintain documentation of certification of operators. The federal 2005 Underground Storage Tank Compliance Act, which amends Section 9003 of Subtitle 1 of the Solid Waste Disposal Act, mandates that states authorized to administer the Underground Storage Tank program take certain actions to reduce the incidence of leaking USTs. One such action is to require that all operators of UST facilities receive training by August 8, 2012. This action must be implemented to maintain federal funding of the UST program in the state and to maintain federal delegation of the UST program. This will further enhance our effort to maintain protection of human health and the environment. The basis and rationale for this rule are to comply with the federal guidelines required by the 2005 Underground Storage Tank Compliance Act. This rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

This rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

A public hearing will be held on October 29, 2009, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Donald Trahan at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by UT017. Such comments must be received no later than November 5, 2009, at 4:30 p.m., and should be sent to Donald Trahan, Attorney Supervisor, Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to FAX (225) 219-3398 or by e-mail to donald.trahan@la.gov. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225)

219-3168. Check or money order is required in advance for each copy of UT017. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson, CPM
Executive Counsel

Title 33 ENVIRONMENTAL QUALITY

Part XI. Underground Storage Tanks

Chapter 6. Training Requirements for Underground Storage Tank System Operators

§601. Purpose

A. This Chapter implements requirements mandated by the Underground Storage Tank Compliance Act, 42 U.S.C. 6991.

B. The requirements outlined in this Chapter apply to UST systems regulated under this Part, except those excluded by regulation in LAC 33:XI.101.B and those deferred by regulation in LAC 33:XI.101.C.2.a.i – v.

C. Owners and operators of UST systems described in Subsection B of this Section must comply with the UST operator training requirements listed in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 35:**.

§603. Underground Storage Tank Operator Classes

A. There shall be three classes of UST operators, identified as Class A, Class B, and Class C.

1. Designation. Owners of UST systems described in LAC 33:XI.601.B must designate for each UST system or group of UST systems at a facility, at least one named individual for each class of operators.

a. UST owners may designate a different individual for each class of operators, or one individual for more than one operator class.

b. Any individual designated for more than one operator class shall be trained and certified for each operator class that the individual is designated to represent.

c. During hours of operation, UST facilities must have at least one UST operator (either a Class A, Class B, or Class C UST operator) present at the UST facility, except for un-manned UST facilities. An *un-manned facility* is a storage tank system without a sales office, store, or other business establishment associated with it. Examples of un-manned facilities include, but are not limited to, card lock or card access fueling stations with no attendant and telecommunication towers or utility transfer stations serviced by emergency generator USTs.

2. Training. Individuals designated as Class A, B, or C UST operators shall be trained and certified in accordance with these regulations by the applicable deadlines in LAC 33:XI.607.

B. The three classes of UST operators are identified as follows.

1. Class A UST Operator

a. Functions. A class A operator of a UST system is the tank owner, or person designated by the tank owner to represent the owner's interest, who has the primary responsibility of ensuring the proper operation and maintenance of the UST system, including managing resources and personnel necessary to achieve and maintain compliance with these regulations.

b. Qualifications and Training. Class A UST operators must be trained in and have a general knowledge of the requirements of these regulations, including, but not limited to, the UST registration, system components, product compatibility, spill and overflow prevention, corrosion protection, and release detection requirements, and the UST recordkeeping and notification requirements, release and suspected release reporting and response requirements, temporary and permanent closure requirements, operator training requirements, and financial responsibility requirements.

2. Class B UST Operator

a. Functions. A class B operator of a UST system is a person or persons designated by the tank owner to implement all applicable requirements of these regulations in the field and to implement the day-to-day aspects of the operation and maintenance of, and recordkeeping for, UST systems at one or more facilities.

b. Qualifications. Class B UST operators must be capable of monitoring, maintaining, and ensuring compliance with all the release detection and prevention methods and equipment requirements, the release detection and prevention recordkeeping and reporting requirements, and the release detection equipment performance standards, and must be capable of ensuring that Class C UST operators are trained in facility-specific emergency procedures and notification requirements, and that these procedures and requirements are posted for the use of Class C UST operators.

c. Training. Class B UST operators must be trained in and have knowledge of:

- i. UST system components, including the materials and compatibility of such components;
- ii. methods of release detection and release prevention; and
- iii. the operation and maintenance requirements that apply to:
 - (a). spill and overflow prevention;
 - (b). release detection and corrosion protection;
 - (c). emergency response procedures;
 - (d). product compatibility;
 - (e). reporting and recordkeeping; and
 - (f). Class C UST operator training.

3. Class C UST Operator

a. Function. A Class C operator of a UST system is a person or persons designated by the tank owner to be responsible for the effective response to alarms or other indications of emergencies caused by spills, overfills, or releases from UST systems, and to any other indication of possible releases from UST systems.

b. Training. Class C UST operators must be trained in emergency response procedures, which must include the operation of emergency shut-off equipment, initial response procedures to alarms and releases, and required notifications to emergency responders and to the designated Class A and Class B operators of a UST system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 35:**.

§605. Acceptable UST Operator Training and Certification Processes

A. Training. Operator training must evaluate operator fulfillment of the training requirements described for each class of operator in LAC 33:XI.603. The following is a list of acceptable approaches to meet the operator training requirements.

1. Acceptable Training for Class A and Class B UST Operators. Class A and Class B UST operators must complete a UST operator training seminar that includes the information listed in LAC 33:XI.603.B.1 or 2, respectively, and that has received approval by the department. This program may include in-class or hands-on training performed, contracted for, or approved by the department, and must include an evaluation of operator knowledge through testing, practical demonstration, or other tools deemed acceptable by the department.

2. Acceptable Training for Class C UST Operators

a. Class C UST operators must complete training presented by either a Class A or Class B UST operator that includes the information listed in LAC 33:XI.603.B.3.

b. UST owners and Class B UST operators must ensure that site-specific notices that include site-specific emergency procedures, the location of emergency shut-off devices, and appropriate emergency contact telephone numbers are posted in a prominent area at the UST facility that is easily visible to the Class C UST operator.

B. Certification. UST operators are considered certified UST operators after successfully completing one of the training processes listed in Subsection A of this Section.

1. Class A and Class B UST Operators. The department or a department-approved training contractor will provide written verification to all Class A and Class B UST operators who have successfully completed training, in the form of a training certificate stating the classification(s) obtained.

2. Class C UST Operators. Certified Class A or Class B UST operators who train Class C UST operators must submit a list of all Class C UST operators they have trained, and the information that was included in the training, to the department or a department-approved contractor, and the department or department-approved contractor will provide the Class C UST operators with written verification of successful training completion in the form of a training certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 35:**.

§607. Underground Storage Tank Operator Training Deadlines

A. On or after [INSERT DATE OF PROMULGATION], owners of UST systems must designate their Class A and Class B UST operators and provide these designations to department personnel or to department-contracted inspectors during department or contract inspections.

B. In order to ensure that all Class A and Class B UST operators have completed an acceptable operator training course as specified in LAC 33:XI.605 by August 8, 2012, the following training schedule for Class A and Class B UST operators who have not been previously certified must be followed.

1. All Class A and Class B UST operators for facilities inspected between [INSERT DATE OF PROMULGATION] and May 8, 2010, must complete an acceptable operator training course as specified in LAC 33:XI.605 within nine months of the inspection date.

2. All Class A and Class B UST operators for facilities inspected between May 9, 2010 and February 8, 2011, must complete an acceptable operator training course as specified in LAC 33:XI.605 within nine months of the inspection date.

3. All Class A and Class B UST operators for facilities inspected between February 9, 2011 and November 8, 2011, must complete an acceptable operator training course as specified in LAC 33:XI.605 within nine months of the inspection date.

C. All Class A and Class B UST operators, including those Class A and Class B UST operators who have not been given departmental notice of their need to receive qualifying training during inspections, must complete an acceptable operator training course as specified in LAC 33:XI.605 by August 8, 2012.

D. All Class C UST operators must complete an acceptable operator training course as specified in LAC 33:XI.605.A.2 by August 8, 2012.

E. After August 8, 2012, UST owners must require that all newly-designated Class A or Class B UST operators complete an acceptable operator training course as specified in LAC 33:XI.605 within 30 days after assuming operation and maintenance responsibilities at the UST system.

F. After August 8, 2012, UST owners must require that all newly-designated Class C UST operators complete an acceptable operator training course as specified in LAC 33:XI.605 before assuming unsupervised responsibility for responding to emergencies at UST system facilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 35:**.

§609. Underground Storage Tank Operator Training Frequency

A. Certified Class A, Class B, and Class C UST operators must be re-trained in accordance with LAC 33:XI.603 and 605 within three years of their last training date.

1. Certified Class A and Class B UST operators who are the designated operators for multiple facilities are only required to attend one department-approved UST operator training seminar every three years.

2. Certified Class C UST operators must be re-trained once every three years, or prior to assuming responsibility at a facility owned by a different UST owner.

B. Certified Class A and Class B UST operators may work at any UST facility in Louisiana without having to be re-trained until their certifications expire.

C. After August 8, 2012, certified Class C UST operators may only work at UST facilities owned by the UST owners that provided their initial training without having to be re-trained until their certifications expire.

D. When issues of noncompliance are noted at a facility, Class A and/or Class B UST operators, as determined by the department for that UST facility, must attend either a department-sponsored compliance class that addresses the noted noncompliant areas or an acceptable operator training course as specified in LAC 33:XI.605, within the time frame given in the notification by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 35:**.

§611. Documentation of Underground Storage Tank Operator Training

A. Owners and operators must maintain the following records demonstrating compliance with UST operator training requirements for operators associated with the facility:

1. current training certificates for all Class A, Class B, and Class C UST operators; and

2. a list of emergency procedures, which includes site-specific emergency procedures, the location of emergency shut-off devices, and appropriate emergency contact telephone numbers, that is posted in a prominent area at the UST facility that is easily visible to the Class C UST operator.

B. Owners and operators must either keep the required training records at the UST site and immediately available for the department's inspection, or at a readily available alternative location and provide them to the department for inspection upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 35:**.

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULESLOG #: UT017

Person
Preparing Statement: Samuel Broussard
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Return Address: 602 N. Fifth
Baton Rouge, LA 70802

Dept.: Environmental Quality

Office: Environmental Assessment

Rule Title: Training Requirements for Underground Storage Tank System Operators (LAC 33:XI.601, 603, 605, 607, 609, and 611)

Date Rule Takes Effect: Upon Promulgation

SUMMARY

(Use complete sentences)

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The approximate cost to contract for the administration of this program and to provide training for all Louisiana UST operators (approximately 3,000) is estimated at \$699,000.00 every three years. The approximate cost per year is \$233,000. This estimate is based on contractor estimates to conduct this type of training and meet all of the program administration requirements specified in the proposed rule.

The department receives approximately \$650,000 to \$685,000 per year in federal funding to administer the UST program. The amount of funding depends on the amount of federal funding available per year and the percent allocations made to each state. All federal funding will be lost if the program is not implemented.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections of state and local governmental units will not change as a result of this proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The cost of administering this program is indirectly related to UST owners, as fuel distributors pay a 0.8 cent per gallon fee for all fuel delivered into underground storage tanks and charge this fee to UST owners. This fee is used to fund the Motor Fuels Underground Storage Tank Trust Fund (MFUSTTF), which is used as financial assurance for UST owners to pay for releases to the environment and third party claims. The MFUSTTF is the planned source for funding for the administration of the operator training required by this proposed rule.

Directly-affected persons, owners and operators of UST facilities, will have to ensure that their UST operators are trained in accordance with these regulations by August 8, 2012. This proposed operator training program will not have an attendance fee, allowing all UST operators to be trained at no cost to the UST owner or operator. An indirect cost to affected persons is the travel and expenses cost of their UST operators' attending a 4- to 8-hour training course once every three years.

A potential savings that is not quantifiable at this time is that trained UST operators will more likely be able to properly operate UST release detection and corrosion protection equipment, interpret release detection data effectively, and detect and respond to releases quicker, resulting in less environmental contamination, fewer and lower claims to the Motor Fuels Underground Storage Tank Trust Fund (MFUSTTF), and a decrease of third party lawsuits resulting from offsite migration of contaminants. UST owners are responsible for the cost of remediating contaminated sites and/or third party lawsuits once the \$1,000,000 MFUSTTF coverage amount per release is exceeded.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no impact on competition or employment from the proposed rule. All UST owners and operators will be required to participate in this training.

Signature of Agency Head or Designee

Legislative Fiscal Officer or Designee

Herman Robinson, CPM, Executive Counsel

Typed Name and Title of Agency Head or Designee

Date of Signature

Date of Signature

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

The following information is requested in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberation on the proposed rule.

- A. Provide a brief summary of the content of the rule (if proposed for adoption, or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).

This rule will require training for all operators of underground storage tank (UST) facilities by August 8, 2012. The rule defines the classes of operators (Classes A, B, and C), lists the acceptable training and certification processes for each class, establishes a phase-in schedule for operators to attend the training, and requires that UST owners maintain documentation of the certification of operators.

- B. Summarize the circumstances which require this action. If the Action is required by federal regulation, attach a copy of the applicable regulation.

The federal 2005 Underground Storage Tank Compliance Act, which amends Section 9003 of Subtitle I of the Solid Waste Disposal Act, mandates states authorized to administer the Underground Storage Tank Program to take certain actions to reduce the incidence of leaking USTs. One such action is to require that all operators of UST facilities receive training by August 8, 2012. This proposed rule will require operator training for all UST operators by August 8, 2012. This action must be implemented to maintain federal funding of the UST program in the state and to maintain federal delegation of the UST program. This will further enhance our effort to maintain protection of human health and the environment.

- C. Compliance with Act 11 of the 1986 First Extraordinary Session

(1) Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

Yes, there will be an increase in the expenditure of funds to implement the rule. The cost to provide this training will be approximately \$233,000 per year. The funding source would be the Environmental Trust Fund, with re-imbursement from the Motor Fuels Underground Storage Tank Trust Fund (MFUSTTF). The department receives approximately \$650,000 to \$685,000 per year in federal funding to administer the UST program. The amount of funding depends on the amount of federal funding available per year and the percent allocations made to each state.

(2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

(a) x Yes. If yes, attach documentation.

(b) ____ No. If no, provide justification as to why this rule change should be published at this time.

La. R. S. 2195(C) and 2195.2(A)(4) allow monies deposited into the Environmental Trust Fund to be used to defray the cost to the state of administering the underground storage tank program.

FISCAL AND ECONOMIC IMPACT STATEMENT

WORKSHEET

I. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED

1. What is the anticipated increase (decrease) in costs to implement the proposed action?

COSTS	FY 09-10	FY 10-11	FY 11-12
PERSONAL SERVICES	-0-	-0-	-0-
OPERATING EXPENSES	-0-	-0-	-0-
PROFESSIONAL SERVICES	-0-	-0-	-0-
OTHER CHARGES	-\$233,000-	-\$233,000-	-\$233,000-
EQUIPMENT	-0-	-0-	-0-
TOTAL	-\$233,000-	-\$233,000-	-\$233,000-
MAJOR REPAIR & CONSTR	-0-	-0-	-0-

2. Provide a narrative explanation of the costs or savings shown in "A.1.", including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

In lieu of administering the operator training program, LDEQ is proposing to contract for the administration of this program. The approximate cost to contract for the administration of this program and to provide training for all Louisiana UST operators (approximately 3,000) is estimated at \$699,000.00 every three years. The approximate cost per year is \$233,000. This estimate is based on contractor estimates to conduct this type of training and meet all of the program administration requirements specified in the proposed rule. The department receives approximately \$650,000 to \$685,000 per year in federal funding to administer the UST program. The amount of funding depends on the amount of federal funding available per year and the percent allocations made to each state. All federal funding would be lost if the programs required by the Energy Act were not implemented.

A potential saving that is not quantifiable at this time is that trained UST operators will be able to properly operate UST release detection and corrosion protection equipment, interpret release detection data effectively, and detect and respond to releases quicker, resulting in less environmental contamination and fewer and lower claims to the Motor Fuels Underground Storage Tank Trust Fund (MFUSTTF) managed by the department.

3. Sources of funding for implementing the proposed rule or rule change.

SOURCE	FY 09-10	FY 10-11	FY 11-12
STATE GENERAL FUND	-0-	-0-	-0-
AGENCY SELF-GENERATED	-\$233,000-	-\$233,000-	-\$233,000-
DEDICATED	-0-	-0-	-0-
FEDERAL FUNDS	-0-	-0-	-0-
OTHER (Specify)	MFUSTTF	MFUSTTF	MFUSTTF
TOTAL	-\$233,000-	-\$233,000-	-\$233,000-

The funding source would be the Environmental Trust Fund, with reimbursement from the Motor Fuels Underground Storage Tank Trust Fund (MFUSTTF). On 2/12/09, the MFSUTT Advisory Board gave no objections to allowing funding for this program by the MFUSTTF.

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

The department will have sufficient funds to implement the program with the statutory ability to transfer funding from the MFUSTTF to the Environmental Trust Fund along with the current federal funding. If the program is not implemented, the department will lose all federal funding for the UST program.

B. COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THE ACTION PROPOSED.

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

Local governmental units that own USTs will be required to send designated staff to be trained, thereby incurring costs for staff travel to attend the classes every three years. No further costs will be incurred by local government units to implement the rule.

2. Indicate the sources of funding of the local governmental unit which will be affected by these costs or savings.

Current sources of funding for environmental items will be utilized with no significant effect.

FISCAL AND ECONOMIC IMPACT STATEMENT

WORKSHEET

II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS

A. What increase (decrease) in revenues can be anticipated from the proposed action?

REVENUE INCREASE/DECREASE	FY 09-10	FY 10-11	FY 11-12
STATE GENERAL FUND	-0-	-0-	-0-
AGENCY SELF-GENERATED	-0-	-0-	-0-
RESTRICTED FUNDS*	-0-	-0-	-0-
FEDERAL FUNDS	-0-	-0-	-0-
LOCAL FUNDS	-0-	-0-	-0-
TOTAL	-0-	-0-	-0-

*Specify the particular fund being impacted.

B. Provide a narrative explanation of each increase or decrease in revenues shown in "A." Describe all data, assumptions, and methods used in calculating these increases or decreases.

Revenue collections of state and local governmental units will not change as a result of this proposed rule.

III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS

A. What persons or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.), they may have to incur as a result of the proposed action.

The cost of administering this program is indirectly related to UST owners, as fuel distributors pay a 0.8 cent per gallon fee for all fuel delivered into underground storage tanks and charge this fee to the UST owners. This fee is used to fund the Motor Fuels Underground Storage Tank Trust Fund (MFUSTTF), which is used as financial assurance for UST owners to pay for releases to the environment and third party claims. The MFUSTTF is the planned source of funding for the administration of the operator training required by this proposed rule.

Directly-affected persons, owners and operators of UST facilities, will have to ensure that their UST operators are trained in accordance with these regulations by August 8, 2012. This

proposed operator training program will not have an attendance fee, allowing all UST operators to be trained at no cost to the UST owner or operator. An indirect cost to affected persons is the travel and expenses cost of their UST operators' attending a 4- to 8-hour training course once every three years.

A potential savings that is not quantifiable at this time is that trained UST operators will more likely be able to properly operate UST release detection and corrosion protection equipment, interpret release detection data effectively, and detect and respond to releases quicker, resulting in less environmental contamination, fewer and lower claims to the Motor Fuels Underground Storage Tank Trust Fund (MFUSTTF), and a decrease of third party lawsuits resulting from offsite migration of contaminants. UST owners are responsible for the cost of remediating contaminated sites and/or third party lawsuits once the \$1,000,000 MFUSTTF coverage amount per release is exceeded.

- B. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule or rule change to these groups.

There will be minimal impact on receipts or income from adoption of the rule. An indirect cost to affected persons is the travel and expenses cost of their UST operators attending a 4- to 8-hour training course once every three years. A potential savings that is not quantifiable at this time is that trained UST operators will more likely be able to properly operate UST release detection and corrosion protection equipment, interpret release detection data effectively, and detect and respond to releases quicker, resulting in less environmental contamination, fewer and lower claims to the Motor Fuels Underground Storage Tank Trust Fund (MFUSTTF), and a decrease of third party lawsuits resulting from offsite migration of contaminants.

IV. EFFECTS ON COMPETITION AND EMPLOYMENT

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

There should be no impact on competition or employment from the proposed rule. All UST owners and operators will be required to participate in this training.